

AMENDED IN SENATE JUNE 4, 2014

AMENDED IN SENATE APRIL 29, 2014

AMENDED IN ASSEMBLY APRIL 29, 2013

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 388

Introduced by Assembly Member Chesbro

February 15, 2013

An act to amend Sections 1534 and 1536 of, and to add Section 1538.7 to, the Health and Safety Code, and to amend Sections 241.1, ~~628, 628.1,~~ 635, 636, 730.6, 4096.5, and 11469 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 388, as amended, Chesbro. Juveniles.

(1) The California Community Care Facilities Act provides for the licensure and regulation of community care facilities, including foster family homes and group homes, by the State Department of Social Services. Existing law requires the department to conduct an annual unannounced visit of a facility under certain circumstances, including when an accusation against a licensee is pending. Existing law also requires reports on the results of each inspection, evaluation, or consultation to be kept on file in the department and to be open to public inspection.

This bill would include when a group home or other facility licensed to provide residential care to *6 or more* minors has a specified occurrence of incidents in which law enforcement is called regarding

~~allegedly unlawful conduct~~ *an alleged violation of any law defining a crime, as specified*, by a minor residing in the facility as a circumstance that requires the department to conduct an annual unannounced visit of a facility. The bill would require the division of the department with the reports on the results of an inspection prompted by that circumstance to provide the reports to the division of the department responsible for determining and auditing group home rate classification levels and to any other public agency that has certified the facility's program or any component of the facility's program.

Existing law requires the department director, at least annually, to publish and make available to interested persons a list covering all licensed community care facilities, except as specified, and the services for which each facility has been licensed or issued a special permit.

This bill would require that the list for each licensed community care facility that provides residential care for minors include specified information, including the number of licensing complaints and the number of law enforcement contacts made by the facility staff or residents.

(2) Existing law requires the county probation department and the child welfare services department to, pursuant to a jointly developed written protocol, initially determine which status will serve the best interest of a minor and the protection of society when the minor appears to come within the description of a dependent of the court and a ward of the court pursuant to specified provisions. Existing law requires the juvenile court to determine which status is appropriate for the minor after the recommendations of both departments are presented to the court.

This bill would ~~require, whenever a minor who is a dependent of the court appears to come within the description of a ward of the court, prior to the initial status determination by the court, if the minor is in temporary custody of probation or detained in juvenile hall, the county probation department to release the minor to the minor's current foster parent, relative, guardian, group home representative, other caregiver, or social worker. The bill would also require, if the alleged conduct that appears to bring the dependent minor within the description of a ward of the court occurs in, or under the supervision of, a foster home, group home, or other licensed facility that provides residential care for minors, the county probation department and the child welfare services department to consider, in making their determination and recommendation to the court, whether the alleged conduct was within~~

the scope of behaviors to be managed or treated by the facility, as specified. The bill would also require the consideration of whether the alleged conduct was within the scope of behaviors to be managed or treated by the facility, among other things, to be included in the protocols developed by the county probation department and the child welfare services department. By imposing additional duties on local officials, the bill would create a state-mandated local program.

(3) Existing law requires the court to determine whether a minor in custody pursuant to specified provisions shall be released from, or detained in, custody, considering, among other things, whether it is a matter of immediate and urgent necessity for the protection of the minor or reasonably necessary for the protection of the person or property of another that he or she be detained and whether continuance in the home is contrary to the minor's welfare.

This bill would require that the court's decision to detain, if a minor is a dependent of the court, not be based on the minor's status as a dependent of the court or the child welfare services department's inability to provide a placement for the minor. The bill would require, in certain circumstances, the court to order the child welfare services department to place the minor in another licensed or approved placement. By imposing additional duties on local officials, the bill would create a state-mandated local program.

(4) Existing law requires the department, in consultation with specified entities to develop performance standards and outcome measures for determining the effectiveness of the care and supervision provided by group homes under the Aid to Families with Dependent Children-Foster Care program.

This bill would require, by January 1, 2016, the department, in consultation with specified entities and persons, to develop additional performance standards and outcome measures that require group homes to implement programs and services to minimize law enforcement contacts and delinquency petition filings arising in group homes, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to reduce the
2 frequency of law enforcement involvement and delinquency
3 petitions arising from incidents at group homes and other facilities
4 licensed to provide residential care to dependent children.
5 SEC. 2. Section 1534 of the Health and Safety Code is amended
6 to read:
7 1534. (a) (1) Every licensed community care facility shall be
8 subject to unannounced visits by the department. The department
9 shall visit these facilities as often as necessary to ensure the quality
10 of care provided.
11 (A) The department shall conduct an annual unannounced visit
12 to a facility under any of the following circumstances:
13 (i) When a license is on probation.
14 (ii) When the terms of agreement in a facility compliance plan
15 require an annual evaluation.
16 (iii) When an accusation against a licensee is pending.
17 (iv) When a facility requires an annual visit as a condition of
18 receiving federal financial participation.
19 (v) In order to verify that a person who has been ordered out of
20 a facility by the department is no longer at the facility.
21 (vi) When a group home, as defined in Section 1502, or other
22 facility licensed to provide residential care to *six or more* minors
23 ~~has a quarterly~~ *an average over a six-month period of higher more*
24 ~~than one incident per month, for every 12 six minors residing in~~
25 ~~the facility, for whom the facility is licensed to provide care, in~~
26 ~~which law enforcement is called by facility staff regarding allegedly~~
27 ~~unlawful conduct~~ *an alleged violation of any law defining a crime,*
28 *as specified in subdivision (a) of Section 602 of the Welfare and*
29 *Institutions Code, by a minor residing in the facility.*
30 (B) (i) The department shall conduct annual unannounced visits
31 to no less than 20 percent of facilities not subject to an evaluation
32 under subparagraph (A). These unannounced visits shall be
33 conducted based on a random sampling methodology developed
34 by the department.

1 (ii) If the total citations issued by the department exceed the
2 previous year's total by 10 percent, the following year the
3 department shall increase the random sample by an additional 10
4 percent of the facilities not subject to an evaluation under
5 subparagraph (A). The department may request additional resources
6 to increase the random sample by 10 percent.

7 (C) Under no circumstance shall the department visit a
8 community care facility less often than once every five years.

9 (D) In order to facilitate direct contact with group home clients,
10 the department may interview children who are clients of group
11 homes at any public agency or private agency at which the client
12 may be found, including, but not limited to, a juvenile hall,
13 recreation or vocational program, or a nonpublic school. The
14 department shall respect the rights of the child while conducting
15 the interview, including informing the child that he or she has the
16 right not to be interviewed and the right to have another adult
17 present during the interview.

18 (2) The department shall notify the community care facility in
19 writing of all deficiencies in its compliance with the provisions of
20 this chapter and the rules and regulations adopted pursuant to this
21 chapter, and shall set a reasonable length of time for compliance
22 by the facility.

23 (3) (A) Reports on the results of each inspection, evaluation,
24 or consultation shall be kept on file in the department, and all
25 inspection reports, consultation reports, lists of deficiencies, and
26 plans of correction shall be open to public inspection.

27 (B) If an inspection is required pursuant to clause (vi) of
28 subparagraph (A) of paragraph (1), the division of the department
29 with the reports on the results of each inspection shall provide the
30 reports to the division of the department responsible for
31 determining and auditing group home rate classification levels and
32 to any other public agency that has certified the facility's program
33 or any component of the facility's program, including, but not
34 limited to, the State Department of Health Care Services, which
35 certifies group homes pursuant to Section 4096.5 of the Welfare
36 and Institutions Code.

37 (b) (1) This section shall not limit the authority of the
38 department to inspect or evaluate a licensed foster family agency,
39 a certified family home, or any aspect of a program ~~where~~ *in which*

1 a licensed community care facility is certifying compliance with
2 licensing requirements.

3 (2) Upon a finding of noncompliance by the department, the
4 department may require a foster family agency to deny or revoke
5 the certificate of approval of a certified family home, or take other
6 action the department may deem necessary for the protection of a
7 child placed with the family home. The family home shall be
8 afforded the due process provided pursuant to this chapter.

9 (3) If the department requires a foster family agency to deny or
10 revoke the certificate of approval, the department shall serve an
11 order of denial or revocation upon the certified or prospective
12 foster parent and foster family agency that shall notify the certified
13 or prospective foster parent of the basis of the department's action
14 and of the certified or prospective foster parent's right to a hearing.

15 (4) Within 15 days after the department serves an order of denial
16 or revocation, the certified or prospective foster parent may file a
17 written appeal of the department's decision with the department.
18 The department's action shall be final if the certified or prospective
19 foster parent does not file a written appeal within 15 days after the
20 department serves the denial or revocation order.

21 (5) The department's order of the denial or revocation of the
22 certificate of approval shall remain in effect until the hearing is
23 completed and the director has made a final determination on the
24 merits.

25 (6) A certified or prospective foster parent who files a written
26 appeal of the department's order with the department pursuant to
27 this section shall, as part of the written request, provide his or her
28 current mailing address. The certified or prospective foster parent
29 shall subsequently notify the department in writing of any change
30 in mailing address, until the hearing process has been completed
31 or terminated.

32 (7) Hearings held pursuant to this section shall be conducted in
33 accordance with Chapter 5 (commencing with Section 11500) of
34 Part 1 of Division 3 of Title 2 of the Government Code. In all
35 proceedings conducted in accordance with this section, the standard
36 of proof shall be by a preponderance of the evidence.

37 (8) The department may institute or continue a disciplinary
38 proceeding against a certified or prospective foster parent upon
39 any ground provided by this section, enter an order denying or
40 revoking the certificate of approval, or otherwise take disciplinary

1 action against the certified or prospective foster parent,
2 notwithstanding any resignation, withdrawal of application,
3 surrender of the certificate of approval, or denial or revocation of
4 the certificate of approval by the foster family agency.

5 (9) A foster family agency's failure to comply with the
6 department's order to deny or revoke the certificate of employment
7 by placing or retaining children in care shall be grounds for
8 disciplining the licensee pursuant to Section 1550.

9 SEC. 3. Section 1536 of the Health and Safety Code is amended
10 to read:

11 1536. (a) (1) At least annually, the director shall publish and
12 make available to interested persons a list or lists covering all
13 licensed community care facilities, other than foster family homes
14 and certified family homes of foster family agencies providing
15 24-hour care for six or fewer foster children, and the services for
16 which each facility has been licensed or issued a special permit.

17 (2) For a licensed community care facility described in
18 paragraph (1) that provides residential care for minors, the list
19 shall include both of the following:

20 (A) The number of licensing complaints, types of complaint,
21 and outcomes of complaints, including citations, fines, exclusion
22 orders, license suspensions, revocations, and surrenders.

23 (B) The number of law enforcement contacts made by the
24 facility staff or residents, the type of incident, whether staff,
25 residents, or both were involved, the gender, race, ethnicity, and
26 age of residents involved, and the outcomes, including arrests,
27 removals of residents from placement, and termination or
28 suspension of staff.

29 (b) Subject to subdivision (c), to encourage the recruitment of
30 foster family homes and certified family homes of foster family
31 agencies, protect their personal privacy, and to preserve the security
32 and confidentiality of the placements in the homes, the names,
33 addresses, and other identifying information of facilities licensed
34 as foster family homes and certified family homes of foster family
35 agencies providing 24-hour care for six or fewer children shall be
36 considered personal information for purposes of the Information
37 Practices Act of 1977 (Chapter 1 (commencing with Section 1798)
38 of Title 1.8 of Part 4 of Division 3 of the Civil Code). This
39 information shall not be disclosed by any state or local agency
40 pursuant to the California Public Records Act (Chapter 3.5

1 (commencing with Section 6250) of Division 7 of Title 1 of the
2 Government ~~Code~~ ~~except~~ *Code*), *except* as necessary for
3 administering the licensing program, facilitating the placement of
4 children in these facilities, and providing names and addresses
5 only to bona fide professional foster parent organizations upon
6 request.

7 (c) Notwithstanding subdivision (b), the department, a county,
8 or a foster family agency may request information from, or divulge
9 information to, the department, a county, or a foster family agency,
10 regarding a prospective certified parent, foster parent, or relative
11 caregiver for the purpose of, and as necessary to, conduct a
12 reference check to determine whether it is safe and appropriate to
13 license, certify, or approve an applicant to be a certified parent,
14 foster parent, or relative caregiver.

15 (d) The department may issue a citation and, after the issuance
16 of that citation, may assess a civil penalty of fifty dollars (\$50) per
17 day for each instance of a foster family agency's failure to provide
18 the department with the information required by subdivision (h)
19 of Section 88061 of Title 22 of the California Code of Regulations.

20 (e) The Legislature encourages the department, when funds are
21 available for this purpose, to develop a database that would include
22 all of the following information:

23 (1) Monthly reports by a foster family agency regarding family
24 homes.

25 (2) A log of family homes certified and decertified, provided
26 by a foster family agency to the department.

27 (3) Notification by a foster family agency to the department
28 informing the department of a foster family agency's determination
29 to decertify a certified family home due to any of the following
30 actions by the certified family parent:

31 (A) Violating licensing rules and regulations.

32 (B) Aiding, abetting, or permitting the violation of licensing
33 rules and regulations.

34 (C) Conducting oneself in a way that is inimical to the health,
35 morals, welfare, or safety of a child placed in that certified family
36 home.

37 (D) Being convicted of a crime while a certified family parent.

38 (E) Knowingly allowing any child to have illegal drugs or
39 alcohol.

1 (F) Committing an act of child abuse or neglect or an act of
2 violence against another person.

3 SEC. 4. Section 1538.7 is added to the Health and Safety Code,
4 to read:

5 1538.7. A group home or other facility licensed to provide
6 residential care to minors shall report to the department's
7 Community Care Licensing Division upon the occurrence of any
8 incident concerning a resident of the facility involving contact
9 with law enforcement. At least quarterly, the facility shall provide
10 a followup report for each incident involving law enforcement,
11 including the type of incident, whether staff, residents, or both
12 were involved, the gender, race, ethnicity, and age of residents
13 involved, and the outcomes, including arrests, removals of residents
14 from placement, and termination or suspension of staff.

15 SEC. 5. Section 241.1 of the Welfare and Institutions Code is
16 amended to read:

17 241.1. (a) ~~(1)~~—Whenever a minor appears to come within the
18 description of both Section 300 and Section 601 or 602, the county
19 probation department and the child welfare services department
20 shall, pursuant to a jointly developed written protocol described
21 in subdivision (b), initially determine which status will serve the
22 best interests of the minor and the protection of society. The
23 recommendations of both departments shall be presented to the
24 juvenile court with the petition that is filed on behalf of the minor,
25 and the court shall determine which status is appropriate for the
26 minor. Any other juvenile court having jurisdiction over the minor
27 shall receive notice from the court, within five calendar days, of
28 the presentation of the recommendations of the departments. The
29 notice shall include the name of the judge to whom, or the
30 courtroom to which, the recommendations were presented.

31 ~~(2) Whenever a minor who is a dependent of the court pursuant~~
32 ~~to Section 300 appears to come within the description of Section~~
33 ~~601 or 602, prior to the initial status determination by the court~~
34 ~~required in paragraph (1), both of the following shall occur:~~

35 ~~(A) If the minor is in the temporary custody of probation or~~
36 ~~detained in juvenile hall, the county probation department shall~~
37 ~~release the minor to the minor's current foster parent, relative,~~
38 ~~guardian, group home representative, other caregiver, or social~~
39 ~~worker pursuant to Section 628 or 628.1.~~

~~(B) If the alleged conduct that appears to bring the dependent minor within the description of Section 601 or 602 occurs in, or under the supervision of, a foster home, group home, or other licensed facility that provides residential care for minors, the county probation department and the child welfare services department shall consider whether the alleged conduct was within the scope of behaviors to be managed or treated by the foster home or facility, as identified in the minor's case plan, needs and services plan, placement agreement, facility plan of operation, or facility emergency intervention plan, in determining which status will serve the best interests of the minor and the protection of society pursuant to paragraph (1).~~

(b) (1) The probation department and the child welfare services department in each county shall jointly develop a written protocol to ensure appropriate local coordination in the assessment of a minor described in subdivision (a), and the development of recommendations by these departments for consideration by the juvenile court.

(2) These protocols shall require, but not be limited to, consideration of the nature of the referral, the age of the minor, the prior record of the minor's parents for child abuse, the prior record of the minor for out-of-control or delinquent behavior, the parents' cooperation with the minor's school, the minor's functioning at school, the nature of the minor's home environment, and the records of other agencies that have been involved with the minor and his or her family. The protocols also shall contain provisions for resolution of disagreements between the probation and child welfare services departments regarding the need for dependency or ward status and provisions for determining the circumstances under which filing a new petition is required to change the minor's status.

(3) (A) For a minor who is a dependent of the court pursuant to Section 300 and then appears to come within the description of Section 601 or 602, the protocols shall require, but not be limited to, immediate notification of the child welfare services department and the minor's dependency attorney upon referral to probation, procedures for release to, and placement by, the child welfare services department pending resolution of the determination pursuant to this section, timelines for dependents in secure custody to ensure ~~speedy~~ *timely* resolution of the determination pursuant

1 to this section for detained dependents, consideration of whether
2 the alleged conduct occurred in, or under the supervision of, a
3 foster home, group home, or other licensed residential facilities
4 serving minors, and if so, whether the alleged conduct is within
5 the scope of behaviors identified in the minor's case plan, needs
6 and services plan, placement agreement, or the facility's plan of
7 operation, or the facility's emergency intervention plan as behavior
8 to be managed or treated by the home or facility, and
9 nondiscrimination provisions to ensure that dependents are
10 provided with any option that would otherwise be available to a
11 nondependent minor.

12 *(B) If the alleged conduct that appears to bring the dependent*
13 *minor within the description of Section 601 or 602 occurs in, or*
14 *under the supervision of, a foster home, group home, or other*
15 *licensed facility that provides residential care for minors, the*
16 *county probation department and the child welfare services*
17 *department shall consider whether the alleged conduct was within*
18 *the scope of behaviors to be managed or treated by the foster home*
19 *or facility, as identified in the minor's case plan, needs and services*
20 *plan, placement agreement, facility plan of operation, or facility*
21 *emergency intervention plan, in determining which status will*
22 *serve the best interests of the minor and the protection of society*
23 *pursuant to subdivision (a).*

24 (4) The protocols shall contain the following processes:

25 (A) A process for determining which agency and court shall
26 supervise a child whose jurisdiction is modified from delinquency
27 jurisdiction to dependency jurisdiction pursuant to paragraph (2)
28 of subdivision (b) of Section 607.2 or subdivision (i) of Section
29 727.2.

30 (B) A process for determining which agency and court shall
31 supervise a nonminor dependent under the transition jurisdiction
32 of the juvenile court.

33 (C) A process that specifically addresses the manner in which
34 supervision responsibility is determined when a nonminor
35 dependent becomes subject to adult probation supervision.

36 (c) Whenever a minor who is under the jurisdiction of the
37 juvenile court of a county pursuant to Section 300, 601, or 602 is
38 alleged to come within the description of Section 300, 601, or 602
39 by another county, the county probation department or child
40 welfare services department in the county that has jurisdiction

1 under Section 300, 601, or 602 and the county probation
2 department or child welfare services department of the county
3 alleging the minor to be within one of those sections shall initially
4 determine which status will best serve the best interests of the
5 minor and the protection of society. The recommendations of both
6 departments shall be presented to the juvenile court in which the
7 petition is filed on behalf of the minor, and the court shall
8 determine which status is appropriate for the minor. In making
9 their recommendation to the juvenile court, the departments shall
10 conduct an assessment consistent with the requirements of
11 subdivision (b). Any other juvenile court having jurisdiction over
12 the minor shall receive notice from the court in which the petition
13 is filed within five calendar days of the presentation of the
14 recommendations of the departments. The notice shall include the
15 name of the judge to whom, or the courtroom to which, the
16 recommendations were presented.

17 (d) Except as provided in subdivision (e), this section shall not
18 authorize the filing of a petition or petitions, or the entry of an
19 order by the juvenile court, to make a minor simultaneously both
20 a dependent child and a ward of the court.

21 (e) Notwithstanding subdivision (d), the probation department
22 and the child welfare services department, in consultation with the
23 presiding judge of the juvenile court, in any county may create a
24 jointly written protocol to allow the county probation department
25 and the child welfare services department to jointly assess and
26 produce a recommendation that the child be designated as a dual
27 status child, allowing the child to be simultaneously a dependent
28 child and a ward of the court. This protocol shall be signed by the
29 chief probation officer, the director of the county social services
30 agency, and the presiding judge of the juvenile court prior to its
31 implementation. A juvenile court shall not order that a child is
32 simultaneously a dependent child and a ward of the court pursuant
33 to this subdivision unless and until the required protocol has been
34 created and entered into. This protocol shall include all of the
35 following:

36 (1) A description of the process to be used to determine whether
37 the child is eligible to be designated as a dual status child.

38 (2) A description of the procedure by which the probation
39 department and the child welfare services department will assess
40 the necessity for dual status for specified children and the process

1 to make joint recommendations for the court's consideration prior
2 to making a determination under this section. These
3 recommendations shall ensure a seamless transition from wardship
4 to dependency jurisdiction, as appropriate, so that services to the
5 child are not disrupted upon termination of the wardship.

6 (3) A provision for ensuring communication between the judges
7 who hear petitions concerning children for whom dependency
8 jurisdiction has been suspended while they are within the
9 jurisdiction of the juvenile court pursuant to Section 601 or 602.

10 A judge may communicate by providing a copy of any reports
11 filed pursuant to Section 727.2 concerning a ward to a court that
12 has jurisdiction over dependency proceedings concerning the child.

13 (4) A plan to collect data in order to evaluate the protocol
14 pursuant to Section 241.2.

15 (5) Counties that exercise the option provided for in this
16 subdivision shall adopt either an "on-hold" system as described
17 in subparagraph (A) or a "lead court/lead agency" system as
18 described in subparagraph (B). There shall not be any simultaneous
19 or duplicative case management or services provided by both the
20 county probation department and the child welfare services
21 department. It is the intent of the Legislature that judges, in cases
22 in which more than one judge is involved, shall not issue
23 conflicting orders.

24 (A) In counties in which an on-hold system is adopted, the
25 dependency jurisdiction shall be suspended or put on hold while
26 the child is subject to jurisdiction as a ward of the court. When it
27 appears that termination of the court's jurisdiction, as established
28 pursuant to Section 601 or 602, is likely and that reunification of
29 the child with his or her parent or guardian would be detrimental
30 to the child, the county probation department and the child welfare
31 services department shall jointly assess and produce a
32 recommendation for the court regarding whether the court's
33 dependency jurisdiction shall be resumed.

34 (B) In counties in which a lead court/lead agency system is
35 adopted, the protocol shall include a method for identifying which
36 court or agency will be the lead court/lead agency. That court or
37 agency shall be responsible for case management, conducting
38 statutorily mandated court hearings, and submitting court reports.

39 (f) Whenever the court determines pursuant to this section or
40 Section 607.2 or 727.2 that it is necessary to modify the court's

1 jurisdiction over a dependent or ward who was removed from his
2 or her parent or guardian and placed in foster care, the court shall
3 ensure that all of the following conditions are met:

4 (1) The petition under which jurisdiction was taken at the time
5 the dependent or ward was originally removed is not dismissed
6 until the new petition has been sustained.

7 (2) The order modifying the court's jurisdiction contains all of
8 the following provisions:

9 (A) Reference to the original removal findings and a statement
10 that findings that continuation in the home is contrary to the child's
11 welfare, and that reasonable efforts were made to prevent removal,
12 remain in effect.

13 (B) A statement that the child continues to be removed from
14 the parent or guardian from whom the child was removed under
15 the original petition.

16 (C) Identification of the agency that is responsible for placement
17 and care of the child based upon the modification of jurisdiction.

18 ~~SEC. 6. Section 628 of the Welfare and Institutions Code is~~
19 ~~amended to read:~~

20 ~~628. (a) Except as provided in subdivision (b), upon delivery~~
21 ~~to the probation officer of a minor who has been taken into~~
22 ~~temporary custody under the provisions of this article, the probation~~
23 ~~officer shall immediately investigate the circumstances of the~~
24 ~~minor and the facts surrounding his or her being taken into custody~~
25 ~~and shall immediately release the minor to the custody of his or~~
26 ~~her parent, legal guardian, or responsible relative unless it can be~~
27 ~~demonstrated upon the evidence before the court that continuance~~
28 ~~in the home is contrary to the minor's welfare and one or more of~~
29 ~~the following conditions exist:~~

30 ~~(1) The minor is in need of proper and effective parental care~~
31 ~~or control and has no parent, legal guardian, or responsible relative;~~
32 ~~or has no parent, legal guardian, or responsible relative willing to~~
33 ~~exercise or capable of exercising that care or control; or has no~~
34 ~~parent, legal guardian, or responsible relative actually exercising~~
35 ~~that care or control.~~

36 ~~(2) The minor is destitute, is not provided with the necessities~~
37 ~~of life, or is not provided with a home or suitable place of abode.~~

38 ~~(3) The minor is provided with a home that is an unfit place for~~
39 ~~him or her by reason of neglect, cruelty, depravity or physical~~
40 ~~abuse by either of his or her parents, by his or her legal guardian,~~

1 or by another person in whose custody or care he or she is
2 entrusted.

3 (4) ~~Continued detention of the minor is a matter of immediate~~
4 ~~and urgent necessity for the protection of the minor or reasonable~~
5 ~~necessity for the protection of the person or property of another.~~

6 (5) ~~The minor is likely to flee the jurisdiction of the court.~~

7 (6) ~~The minor has violated an order of the juvenile court.~~

8 (7) ~~The minor is physically dangerous to the public because of~~
9 ~~a mental or physical deficiency, disorder, or abnormality.~~

10 (b) ~~Upon delivery to the probation officer of a minor who is a~~
11 ~~dependent of the court pursuant to Section 300 and who has been~~
12 ~~taken into temporary custody pursuant to this article, the probation~~
13 ~~officer shall immediately investigate the circumstances of the~~
14 ~~minor and the facts surrounding his or her being taken into custody~~
15 ~~and shall release the minor to the custody of the minor's current~~
16 ~~foster parent, relative, guardian, group home representative, other~~
17 ~~caregiver, or social worker unless it can be demonstrated upon the~~
18 ~~evidence before the court that one or more of the following~~
19 ~~conditions exist:~~

20 (1) ~~Continued detention of the minor is a matter of immediate~~
21 ~~and urgent necessity for the protection of the minor or reasonable~~
22 ~~necessity for the protection of the person or property of another.~~

23 (2) ~~The minor is likely to flee the jurisdiction of the court.~~

24 (3) ~~The minor has violated an order of the juvenile court.~~

25 (c)

26 ~~If the probation officer has reason to believe that the minor is~~
27 ~~at risk of entering foster care placement as defined in paragraphs~~
28 ~~(1) and (2) of subdivision (d) of Section 727.4, then the probation~~
29 ~~officer shall, as part of the investigation undertaken pursuant to~~
30 ~~subdivision (a), make reasonable efforts, as described in paragraph~~
31 ~~(5) of subdivision (d) of Section 727.4, to prevent or eliminate the~~
32 ~~need for removal of the minor from his or her home.~~

33 (d)

34 ~~In any case in which there is reasonable cause for believing~~
35 ~~that a minor who is under the care of a physician or surgeon or a~~
36 ~~hospital, clinic, or other medical facility and cannot be immediately~~
37 ~~moved is a person described in subdivision (d) of Section 300, the~~
38 ~~minor shall be deemed to have been taken into temporary custody~~
39 ~~and delivered to the probation officer for the purposes of this~~

chapter while he or she is at the office of the physician or surgeon
or that medical facility.

(e)

~~(1) It is the intent of the Legislature that this subdivision shall
comply with paragraph (29) of subsection (a) of Section 671 of
Title 42 of the United States Code as added by the Fostering
Connections to Success and Increasing Adoptions Act of 2008
(Public Law 110-351). It is further the intent of the Legislature
that the identification and notification of relatives shall be made
as early as possible after the removal of a youth who is at risk of
entering foster care placement.~~

~~(2) If the minor is detained and the probation officer has reason
to believe that the minor is at risk of entering foster care placement,
as defined in paragraphs (1) and (2) of subdivision (d) of Section
727.4, then the probation officer shall conduct, within 30 days, an
investigation in order to identify and locate all grandparents, adult
siblings, and other relatives of the child, as defined in paragraph
(2) of subdivision (f) of Section 319, including any other adult
relatives suggested by the parents. The probation officer shall
provide to all adult relatives who are located, except when that
relative's history of family or domestic violence makes notification
inappropriate, within 30 days of the date on which the child is
detained, written notification and shall also, whenever appropriate,
provide oral notification, in person or by telephone, of all the
following information:~~

~~(A) The child has been removed from the custody of his or her
parent or parents, or his or her guardians.~~

~~(B) An explanation of the various options to participate in the
care and placement of the child and support for the child's family,
including any options that may be lost by failing to respond. The
notice shall provide information about providing care for the child,
how to become a foster family home or approved relative or
nonrelative extended family member as defined in Section 362.7,
and additional services and support that are available in
out-of-home placements. The notice shall also include information
regarding the Kin-GAP Program (Article 4.5 (commencing with
Section 11360) of Chapter 2 of Part 3 of Division 9), the
CalWORKs program for approved relative caregivers (Chapter 2
(commencing with Section 11200) of Part 3 of Division 9),
adoption and adoption assistance (Chapter 2.1 (commencing with~~

1 Section 16115) of Part 4 of Division 9), as well as other options
2 for contact with the child, including, but not limited to, visitation.
3 When oral notification is provided, the probation officer is not
4 required to provide detailed information about the various options
5 to help with the care and placement of the child.

6 (3) The probation officer shall use due diligence in investigating
7 the names and locations of the relatives pursuant to paragraph (2);
8 including, but not limited to, asking the child in an age-appropriate
9 manner about relatives important to the child, consistent with the
10 child's best interest, and obtaining information regarding the
11 location of the child's adult relatives.

12 (4) To the extent allowed by federal law as a condition of
13 receiving funding under Title IV-E of the federal Social Security
14 Act (42 U.S.C. Sec. 670 et seq.), if the probation officer did not
15 conduct the identification and notification of relatives, as required
16 in paragraph (2), but the court orders foster care placement, the
17 probation officer shall conduct the investigation to find and notify
18 relatives within 30 days of the placement order. This section shall
19 not delay foster care placement for an individual child.

20 SEC. 7. Section 628.1 of the Welfare and Institutions Code is
21 amended to read:

22 628.1. (a) If the minor meets one or more of the criteria for
23 detention under Section 628, but the probation officer believes
24 that 24-hour secure detention is not necessary in order to protect
25 the minor or the person or property of another, or to ensure that
26 the minor does not flee the jurisdiction of the court, the probation
27 officer shall proceed according to this section.

28 (b) Unless one of the conditions described in paragraph (1), (2),
29 or (3) of subdivision (a) of Section 628 exists, the probation officer
30 shall release the minor to his or her parent, guardian, or responsible
31 relative on home supervision. If the minor is a dependent of the
32 court pursuant to Section 300, the probation officer shall release
33 the minor to the minor's current foster parent, relative, guardian,
34 group home representative, other caregiver, or social worker. As
35 a condition for the release, the probation officer shall require the
36 minor to sign a written promise that he or she understands and will
37 observe the specific conditions of home supervision release. As
38 an additional condition for release, the probation officer also shall
39 require the minor's parent, guardian, responsible relative, foster
40 parent, other caregiver, or social worker to sign a written promise,

1 translated into a language the parent understands, if necessary, that
2 he or she understands the specific conditions of home supervision
3 release. These conditions may include curfew and school
4 attendance requirements related to the protection of the minor or
5 the person or property of another, or to the minor's appearances
6 at court hearings. A minor who violates a specific condition of
7 home supervision release that he or she has promised in writing
8 to obey may be taken into custody and placed in secure detention;
9 subject to court review at a detention hearing.

10 (e) A minor on home supervision shall be entitled to the same
11 legal protections as a minor in secure detention, including a
12 detention hearing.

13 ~~SEC. 8.~~

14 *SEC. 6.* Section 635 of the Welfare and Institutions Code is
15 amended to read:

16 635. (a) The court will examine the minor, his or her parent,
17 legal guardian, or other person having relevant knowledge, hear
18 relevant evidence the minor, his or her parent, legal guardian, or
19 counsel desires to present, and, unless it appears that the minor
20 has violated an order of the juvenile court or has escaped from the
21 commitment of the juvenile court or that it is a matter of immediate
22 and urgent necessity for the protection of the minor or reasonably
23 necessary for the protection of the person or property of another
24 that he or she be detained or that the minor is likely to flee to avoid
25 the jurisdiction of the court, the court shall make its order releasing
26 the minor from custody.

27 (b) (1) The circumstances and gravity of the alleged offense
28 may be considered, in conjunction with other factors, to determine
29 whether it is a matter of immediate and urgent necessity for the
30 protection of the minor or reasonably necessary for the protection
31 of the person or property of another that the minor be detained.

32 (2) If a minor is a dependent of the court pursuant to Section
33 300, the court's decision to detain shall not be based on the minor's
34 status as a dependent of the court or the child welfare services
35 department's inability to provide a placement for the minor.

36 (c) (1) The court shall order release of the minor from custody
37 unless a prima facie showing has been made that the minor is a
38 person described in Section 601 or 602.

39 (2) If the court orders release of a minor who is a dependent of
40 the court pursuant to Section 300, the court shall order the child

1 welfare services department either to ensure that the minor's current
2 foster parent or other caregiver takes physical custody of the minor
3 or to take physical custody of the minor and place the minor in a
4 licensed or approved placement.

5 (d) If the probation officer has reason to believe that the minor
6 is at risk of entering foster care placement as described in Section
7 11402, then the probation officer shall submit a written report to
8 the court containing all of the following:

9 (1) The reasons why the minor has been removed from the
10 parent's custody.

11 (2) Any prior referrals for abuse or neglect of the minor or any
12 prior filings regarding the minor pursuant to Section 300.

13 (3) The need, if any, for continued detention.

14 (4) The available services that could facilitate the return of the
15 minor to the custody of the minor's parents or guardians.

16 (5) Whether there are any relatives who are able and willing to
17 provide effective care and control over the minor.

18 ~~SEC. 9.~~

19 *SEC. 7.* Section 636 of the Welfare and Institutions Code is
20 amended to read:

21 636. (a) If it appears upon the hearing that the minor has
22 violated an order of the juvenile court or has escaped from a
23 commitment of the juvenile court or that it is a matter of immediate
24 and urgent necessity for the protection of the minor or reasonably
25 necessary for the protection of the person or property of another
26 that he or she be detained or that the minor is likely to flee to avoid
27 the jurisdiction of the court, and that continuance in the home is
28 contrary to the minor's welfare, the court may make its order that
29 the minor be detained in the juvenile hall or other suitable place
30 designated by the juvenile court for a period not to exceed 15
31 judicial days and shall enter the order together with its findings of
32 fact in support thereof in the records of the court. The
33 circumstances and gravity of the alleged offense may be
34 considered, in conjunction with other factors, to determine whether
35 it is a matter of immediate and urgent necessity for the protection
36 of the minor or the person or property of another that the minor
37 be detained. If a minor is a dependent of the court pursuant to
38 Section 300, the court's decision to detain shall not be based on
39 the minor's status as a dependent of the court or the child welfare

1 services department's inability to provide a placement for the
2 minor.

3 (b) If the court finds that the criteria of Section 628.1 are
4 applicable, the court shall place the minor on home supervision
5 for a period not to exceed 15 judicial days, and shall enter the order
6 together with its findings of fact in support thereof in the records
7 of the court. If the court releases the minor on home supervision,
8 the court may continue, modify, or augment any conditions of
9 release previously imposed by the probation officer, or may impose
10 new conditions on a minor released for the first time. If there are
11 new or modified conditions, the minor shall be required to sign a
12 written promise to obey those conditions pursuant to Section 628.1.

13 (c) If the probation officer is recommending that the minor be
14 detained, the probation officer shall submit to the court
15 documentation, as follows:

16 (1) Documentation that continuance in the home is contrary to
17 the minor's welfare shall be submitted to the court as part of the
18 detention report prepared pursuant to Section 635.

19 (2) Documentation that reasonable efforts were made to prevent
20 or eliminate the need for removal of the minor from the home and
21 documentation of the nature and results of the services provided
22 shall be submitted to the court either as part of the detention report
23 prepared pursuant to Section 635, or as part of a case plan prepared
24 pursuant to Section 636.1, but in no case later than 60 days from
25 the date of detention.

26 (d) Except as provided in subdivision (e), before detaining the
27 minor, the court shall determine whether continuance in the home
28 is contrary to the minor's welfare and whether there are available
29 services that would prevent the need for further detention. The
30 court shall make that determination on a case-by-case basis and
31 shall make reference to the documentation provided by the
32 probation officer or other evidence relied upon in reaching its
33 decision.

34 (1) If the minor can be returned to the custody of his or her
35 parent or legal guardian at the detention hearing, through the
36 provision of services to prevent removal, the court shall release
37 the minor to the physical custody of his or her parent or legal
38 guardian and order that those services be provided.

39 (2) If the minor cannot be returned to the custody of his or her
40 parent or legal guardian at the detention hearing, the court shall

1 state the facts upon which the detention is based. The court shall
2 make the following findings on the record and reference the
3 probation officer's report or other evidence relied upon to make
4 its determinations:

5 (A) Whether continuance in the home of the parent or legal
6 guardian is contrary to the minor's welfare.

7 (B) Whether reasonable efforts have been made to safely
8 maintain the minor in the home of his or her parent or legal
9 guardian and to prevent or eliminate the need for removal of the
10 minor from his or her home. This finding shall be made at the
11 detention hearing if possible, but in no case later than 60 days
12 following the minor's removal from the home.

13 (3) If the minor cannot be returned to the custody of his or her
14 parent or legal guardian at the detention hearing, the court shall
15 make the following orders:

16 (A) The probation officer shall provide services as soon as
17 possible to enable the minor's parent or legal guardian to obtain
18 any assistance as may be needed to enable the parent or guardian
19 to effectively provide the care and control necessary for the minor
20 to return to the home.

21 (B) The minor's placement and care shall be the responsibility
22 of the probation department pending disposition or further order
23 of the court.

24 (4) If the matter is set for rehearing pursuant to Section 637, or
25 continued pursuant to Section 638, or continued for any other
26 reason, the court shall find that the continuance of the minor in
27 the parent's or guardian's home is contrary to the minor's welfare
28 at the initial petition hearing or order the release of the minor from
29 custody.

30 (e) For a minor who is a dependent of the court pursuant to
31 Section 300, the court's decision to detain the minor shall not be
32 based on a finding that continuance in the minor's current
33 placement is contrary to the minor's welfare. If the court determines
34 that continuance in the minor's current placement is contrary to
35 the minor's welfare, the court shall order the child welfare services
36 department to place the minor in another licensed or approved
37 placement.

38 (f) Whether the minor is returned home or detained, the court
39 shall order the minor's parent or guardian to cooperate with the

1 probation officer in obtaining those services described in paragraph
2 (1) of, or in subparagraph (A) of paragraph (3) of, subdivision (d).

3 ~~SEC. 10.~~

4 *SEC. 8.* Section 730.6 of the Welfare and Institutions Code is
5 amended to read:

6 730.6. (a) (1) It is the intent of the Legislature that a victim
7 of conduct for which a minor is found to be a person described in
8 Section 602 who incurs any economic loss as a result of the minor's
9 conduct shall receive restitution directly from that minor.

10 (2) Upon a minor being found to be a person described in
11 Section 602, the court shall consider levying a fine in accordance
12 with Section 730.5. In addition, the court shall order the minor to
13 pay, in addition to any other penalty provided or imposed under
14 the law, both of the following:

15 (A) A restitution fine in accordance with subdivision (b).

16 (B) Restitution to the victim or victims, if any, in accordance
17 with subdivision (h).

18 (b) If a minor is found to be a person described in Section 602,
19 the court shall impose a separate and additional restitution fine.
20 The restitution fine shall be set at the discretion of the court and
21 commensurate with the seriousness of the offense as follows:

22 (1) If the minor is found to be a person described in Section 602
23 by reason of the commission of one or more felony offenses, the
24 restitution fine shall not be less than one hundred dollars (\$100)
25 and not more than one thousand dollars (\$1,000). A separate
26 hearing for the fine shall not be required.

27 (2) If the minor is found to be a person described in Section 602
28 by reason of the commission of one or more misdemeanor offenses,
29 the restitution fine shall not exceed one hundred dollars (\$100). A
30 separate hearing for the fine shall not be required.

31 (c) The restitution fine shall be in addition to any other
32 disposition or fine imposed and shall be imposed regardless of the
33 minor's inability to pay. This fine shall be deposited in the
34 Restitution Fund.

35 (d) (1) In setting the amount of the fine pursuant to
36 subparagraph (A) of paragraph (2) of subdivision (a), the court
37 shall consider any relevant factors including, but not limited to,
38 the minor's ability to pay, the seriousness and gravity of the offense
39 and the circumstances of its commission, any economic gain
40 derived by the minor as a result of the offense, and the extent to

1 which others suffered losses as a result of the offense. The losses
2 may include pecuniary losses to the victim or his or her dependents
3 as well as intangible losses such as psychological harm caused by
4 the offense.

5 (2) The consideration of a minor's ability to pay may include
6 his or her future earning capacity. A minor shall bear the burden
7 of demonstrating a lack of his or her ability to pay.

8 (e) Express findings of the court as to the factors bearing on the
9 amount of the fine shall not be required.

10 (f) Except as provided in subdivision (g), under no circumstances
11 shall the court fail to impose the separate and additional restitution
12 fine required by subparagraph (A) of paragraph (2) of subdivision
13 (a). This fine shall not be subject to penalty assessments pursuant
14 to Section 1464 of the Penal Code.

15 (g) (1) In a case in which the minor is a person described in
16 Section 602 by reason of having committed a felony offense, if
17 the court finds that there are compelling and extraordinary reasons,
18 the court may waive imposition of the restitution fine required by
19 subparagraph (A) of paragraph (2) of subdivision (a). When a
20 waiver is granted, the court shall state on the record all reasons
21 supporting the waiver.

22 (2) If the minor is a person described in paragraph (2) of
23 subdivision (a) of Section 241.1, the court shall waive imposition
24 of the restitution fine required by subparagraph (A) of paragraph
25 (2) of subdivision (a).

26 (h) (1) Restitution ordered pursuant to subparagraph (B) of
27 paragraph (2) of subdivision (a) shall be imposed in the amount
28 of the losses, as determined. If the amount of loss cannot be
29 ascertained at the time of sentencing, the restitution order shall
30 include a provision that the amount shall be determined at the
31 direction of the court at any time during the term of the
32 commitment or probation. The court shall order full restitution
33 unless it finds compelling and extraordinary reasons for not doing
34 so, and states them on the record. A minor's inability to pay shall
35 not be considered a compelling or extraordinary reason not to
36 impose a restitution order, nor shall inability to pay be a
37 consideration in determining the amount of the restitution order.
38 A restitution order pursuant to subparagraph (B) of paragraph (2)
39 of subdivision (a), to the extent possible, shall identify each victim,
40 unless the court for good cause finds that the order should not

1 identify a victim or victims, and the amount of each victim's loss
2 to which it pertains, and shall be of a dollar amount sufficient to
3 fully reimburse the victim or victims for all determined economic
4 losses incurred as the result of the minor's conduct for which the
5 minor was found to be a person described in Section 602, including
6 all of the following:

7 (A) Full or partial payment for the value of stolen or damaged
8 property. The value of stolen or damaged property shall be the
9 replacement cost of like property, or the actual cost of repairing
10 the property when repair is possible.

11 (B) Medical expenses.

12 (C) Wages or profits lost due to injury incurred by the victim,
13 and if the victim is a minor, wages or profits lost by the minor's
14 parent, parents, guardian, or guardians, while caring for the injured
15 minor. Lost wages shall include any commission income as well
16 as any base wages. Commission income shall be established by
17 evidence of commission income during the 12-month period prior
18 to the date of the crime for which restitution is being ordered,
19 unless good cause for a shorter time period is shown.

20 (D) Wages or profits lost by the victim, and if the victim is a
21 minor, wages or profits lost by the minor's parent, parents,
22 guardian, or guardians, due to time spent as a witness or in assisting
23 the police or prosecution. Lost wages shall include any commission
24 income as well as any base wages. Commission income shall be
25 established by evidence of commission income during the
26 12-month period prior to the date of the crime for which restitution
27 is being ordered, unless good cause for a shorter time period is
28 shown.

29 (2) A minor shall have the right to a hearing before a judge to
30 dispute the determination of the amount of restitution. The court
31 may modify the amount on its own motion or on the motion of the
32 district attorney, the victim or victims, or the minor. If a motion
33 is made for modification of a restitution order, the victim shall be
34 notified of that motion at least 10 days prior to the hearing on the
35 motion. When the amount of victim restitution is not known at the
36 time of disposition, the court order shall identify the victim or
37 victims, unless the court finds for good cause that the order should
38 not identify a victim or victims, and state that the amount of
39 restitution for each victim is to be determined. When feasible, the

1 court shall also identify on the court order, any cooffenders who
2 are jointly and severally liable for victim restitution.

3 (i) A restitution order imposed pursuant to subparagraph (B) of
4 paragraph (2) of subdivision (a) shall identify the losses to which
5 it pertains, and shall be enforceable as a civil judgment pursuant
6 to subdivision (r). The making of a restitution order pursuant to
7 this subdivision shall not affect the right of a victim to recovery
8 from the Restitution Fund in the manner provided elsewhere, except
9 to the extent that restitution is actually collected pursuant to the
10 order. Restitution collected pursuant to this subdivision shall be
11 credited to any other judgments for the same losses obtained against
12 the minor or the minor's parent or guardian arising out of the
13 offense for which the minor was found to be a person described
14 in Section 602. Restitution imposed shall be ordered to be made
15 to the Restitution Fund to the extent that the victim, as defined in
16 subdivision (j), has received assistance from the Victims of Crime
17 Program pursuant to Article 5 (commencing with Section 13959)
18 of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government
19 Code.

20 (j) For purposes of this section, "victim" shall include:

21 (1) The immediate surviving family of the actual victim.

22 (2) Any governmental entity that is responsible for repairing,
23 replacing, or restoring public or privately owned property that has
24 been defaced with graffiti or other inscribed material, as defined
25 in subdivision (e) of Section 594 of the Penal Code, and that has
26 sustained an economic loss as the result of a violation of Section
27 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code.

28 (k) This section shall not prevent a court from ordering
29 restitution to any corporation, business trust, estate, trust,
30 partnership, association, joint venture, government, governmental
31 subdivision, agency, or instrumentality, or any other legal or
32 commercial entity when that entity is a direct victim of an offense.
33 If the direct victim is a group home or other facility licensed to
34 provide residential care in which the minor was placed as a
35 dependent or ward of the court, or an employee thereof, restitution
36 shall be limited to out-of-pocket expenses *that are not covered by*
37 *insurance and that are paid by the facility or employee.*

38 (l) Upon a minor being found to be a person described in Section
39 602, the court shall require, as a condition of probation, the
40 payment of restitution fines and orders imposed under this section.

1 Any portion of a restitution order that remains unsatisfied after a
2 minor is no longer on probation shall continue to be enforceable
3 by a victim pursuant to subdivision (r) until the obligation is
4 satisfied in full.

5 (m) Probation shall not be revoked for failure of a person to
6 make restitution pursuant to this section as a condition of probation
7 unless the court determines that the person has willfully failed to
8 pay or failed to make sufficient bona fide efforts to legally acquire
9 the resources to pay.

10 (n) If the court finds and states on the record compelling and
11 extraordinary reasons why restitution should not be required as
12 provided in paragraph (2) of subdivision (a), the court shall order,
13 as a condition of probation, that the minor perform specified
14 community service.

15 (o) The court may avoid ordering community service as a
16 condition of probation only if it finds and states on the record
17 compelling and extraordinary reasons not to order community
18 service in addition to the finding that restitution pursuant to
19 paragraph (2) of subdivision (a) should not be required.

20 (p) When a minor is committed to the Department of the Youth
21 Authority, the court shall order restitution to be paid to the victim
22 or victims, if any. Payment of restitution to the victim or victims
23 pursuant to this subdivision shall take priority in time over payment
24 of any other restitution fine imposed pursuant to this section.

25 (q) At its discretion, the board of supervisors of any county may
26 impose a fee to cover the actual administrative cost of collecting
27 the restitution fine, not to exceed 10 percent of the amount ordered
28 to be paid, to be added to the restitution fine and included in the
29 order of the court, the proceeds of which shall be deposited in the
30 general fund of the county.

31 (r) If the judgment is for a restitution fine ordered pursuant to
32 subparagraph (A) of paragraph (2) of subdivision (a), or a
33 restitution order imposed pursuant to subparagraph (B) of
34 paragraph (2) of subdivision (a), the judgment may be enforced
35 in the manner provided in Section 1214 of the Penal Code.

36 ~~SEC. 11.~~

37 *SEC. 9.* Section 4096.5 of the Welfare and Institutions Code
38 is amended to read:

39 4096.5. (a) The State Department of Health Care Services
40 shall make a determination, within 45 days of receiving a request

1 from a group home to be classified at RCL 13 or RCL 14 pursuant
2 to Section 11462.01, to certify or deny certification that the group
3 home program includes provisions for mental health treatment
4 services that meet the needs of seriously emotionally disturbed
5 children. The department shall issue each certification for a period
6 of one year and shall specify the effective date the program met
7 the certification requirements. A program may be recertified if the
8 program continues to meet the criteria for certification.

9 (b) The State Department of Health Care Services shall, in
10 consultation with the California Mental Health Directors
11 Association and representatives of provider organizations, develop
12 the criteria for the certification required by subdivision (a) by July
13 1, 1992.

14 (c) (1) The State Department of Health Care Services may,
15 upon the request of a county, delegate to that county the
16 certification task.

17 (2) Any county to which the certification task is delegated
18 pursuant to paragraph (1) shall use the criteria and format
19 developed by the department.

20 (d) The State Department of Health Care Services or delegated
21 county shall notify the State Department of Social Services
22 Community Care Licensing Division immediately upon the
23 termination of any certification issued in accordance with
24 subdivision (a).

25 (e) Upon receipt of notification from the State Department of
26 Social Services Community Care Licensing Division of any adverse
27 licensing action taken after the finding of noncompliance during
28 an unannounced visit conducted pursuant to Section 1534 of the
29 Health and Safety Code, the State Department of Health Care
30 Services or the delegated county shall review the certification
31 issued pursuant to this section.

32 ~~SEC. 12.~~

33 *SEC. 10.* Section 11469 of the Welfare and Institutions Code
34 is amended to read:

35 11469. (a) The department, in consultation with group home
36 providers, the County Welfare Directors Association, the Chief
37 Probation Officers of California, the California Mental Health
38 Directors Association, and the State Department of Health Care
39 Services, shall develop performance standards and outcome
40 measures for determining the effectiveness of the care and

1 supervision, as defined in subdivision (b) of Section 11460,
2 provided by group homes under the AFDC-FC program pursuant
3 to Sections 11460 and 11462. These standards shall be designed
4 to measure group home program performance for the client group
5 that the group home program is designed to serve.

6 (1) The performance standards and outcome measures shall be
7 designed to measure the performance of group home programs in
8 areas over which the programs have some degree of influence, and
9 in other areas of measurable program performance that the
10 department can demonstrate are areas over which group home
11 programs have meaningful managerial or administrative influence.

12 (2) These standards and outcome measures shall include, but
13 are not limited to, the effectiveness of services provided by each
14 group home program, and the extent to which the services provided
15 by the group home assist in obtaining the child welfare case plan
16 objectives for the child.

17 (3) In addition, when the group home provider has identified
18 as part of its program for licensing, ratesetting, or county placement
19 purposes, or has included as a part of a child's case plan by mutual
20 agreement between the group home and the placing agency,
21 specific mental health, education, medical, and other child-related
22 services, the performance standards and outcome measures may
23 also measure the effectiveness of those services.

24 (b) Regulations regarding the implementation of the group home
25 performance standards system required by this section shall be
26 adopted no later than one year prior to implementation. The
27 regulations shall specify both the performance standards system
28 and the manner by which the AFDC-FC rate of a group home
29 program shall be adjusted if performance standards are not met.

30 (c) Except as provided in subdivision (d), effective July 1, 1995,
31 group home performance standards shall be implemented. Any
32 group home program not meeting the performance standards shall
33 have its AFDC-FC rate, set pursuant to Section 11462, adjusted
34 according to the regulations required by this section.

35 (d) Effective July 1, 1995, group home programs shall be
36 classified at rate classification level 13 or 14 only if all of the
37 following are met:

38 (1) The program generates the requisite number of points for
39 rate classification level 13 or 14.

1 (2) The program only accepts children with special treatment
2 needs as determined through the assessment process pursuant to
3 paragraph (2) of subdivision (a) of Section 11462.01.

4 (3) The program meets the performance standards designed
5 pursuant to this section.

6 (e) Notwithstanding subdivision (c), the group home program
7 performance standards system shall not be implemented prior to
8 the implementation of the AFDC-FC performance standards
9 system.

10 (f) By January 1, 2016, the department, in consultation with the
11 County Welfare Directors Association, the Chief Probation Officers
12 of California, the California Mental Health Directors Association,
13 research entities, foster youth and advocates for foster youth, foster
14 care provider business entities organized and operated on a
15 nonprofit basis, Indian tribes, and other stakeholders, shall develop
16 additional performance standards and outcome measures that
17 require group homes to implement programs and services to
18 minimize law enforcement contacts and delinquency petition filings
19 arising from incidents of allegedly unlawful behavior by minors
20 occurring in group homes or under the supervision of group home
21 staff, including individualized behavior management programs,
22 emergency intervention plans, and conflict resolution processes.

23 ~~SEC. 13.~~

24 *SEC. 11.* If the Commission on State Mandates determines that
25 this act contains costs mandated by the state, reimbursement to
26 local agencies and school districts for those costs shall be made
27 pursuant to Part 7 (commencing with Section 17500) of Division
28 4 of Title 2 of the Government Code.